



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

2 NAVY ANNEX

WASHINGTON DC 20370-5100

CRS

Docket No: 7927-99

20 April 2000

From: Chairman, Board for Correction of Naval Records  
To: Secretary of the Navy

Subj: REVIEW OF NAVAL RECORD OF [REDACTED]

Ref: (a) 10 U.S.C. 1552  
(b) SECNAVINST 1910.4B

Encl: (1) DD Form 149 w/attachments  
(2) Case Summary  
(3) Subject's naval record

1. Pursuant to the provisions of reference (a), Petitioner, a former enlisted member of the United States Navy, filed enclosure (1) with this Board requesting, in effect, that his naval record be corrected by changing the RE-4 reenlistment code assigned on 16 September 1998.

2. The Board, consisting of Mr. Zsalman, Mr. Beckett, and Mr. Rothlein, reviewed Petitioner's allegations of error and injustice on 19 April 2000 and, pursuant to its regulations, determined that the corrective action indicated below should be taken on the available evidence of record. Documentary material considered by the Board consisted of the enclosures, naval records, and applicable statutes, regulations and policies.

3. The Board, having reviewed all the facts of record pertaining to Petitioner's allegations of error and injustice finds as follows:

a. Before applying to this Board, Petitioner exhausted all administrative remedies available under existing law and regulations within the Department of the Navy.

b. Enclosure (1) was filed in a timely manner.

c. Petitioner enlisted in the Navy on 27 August 1998 at age 22. At the time of his enlistment he had completed 12 years of formal education.

d. On 9 September 1998, while Petitioner was still in recruit training, a psychiatric evaluation found that he had an antisocial personality disorder. The diagnosis was made based on Petitioner's poor attitude and military bearing; and substandard performance in recruit training.

e. On 11 September 1998 the commanding officer directed that Petitioner be separated by reason of personality disorder. On 16 September 1998 Petitioner received an entry level separation by reason of personality disorder. At that time he was assigned a reenlistment code of RE-4.

f. With his application, Petitioner submits a psychiatric evaluation which essentially states that he does not have a personality disorder.

g. In an advisory opinion of 20 March 2000, the Specialty Advisor to the Surgeon General for Psychiatry concludes that the evidence of record fails to support the diagnosis of a personality disorder. Accordingly, the Specialty Advisor recommends that the reason for discharge be changed.

h. Reference (b) states that an individual may be separated by reason of best interest of the service if separation is appropriate but no other reason set forth in the reference covers the situation at hand. Individuals separated for this reason may receive a reenlistment code of RE-R1, RE-1, or RE-4.

#### CONCLUSION:

Upon review and consideration of all the evidence of record, the Board concludes that Petitioner's request warrants partial relief. The Board concurs with the advisory opinion and concludes that the reason for discharge is inappropriate and should be changed to "best interest of the service", a non-stigmatizing reason for separation which is assigned when no other reason is appropriate. In this regard, the Board believes that had the command been aware that separation by reason of personality disorder was improper, discharge action would have been initiated by reason of entry level performance and conduct given his failure to adjust to recruit training. However, the Board is unwilling to substitute this somewhat stigmatizing reason for separation without affording Petitioner notice and an opportunity to respond. Accordingly, the Board believes the nondescript reason of best interest of the service is now appropriate.

Although Petitioner requested that his reenlistment code be changed, the Board notes that an RE-4 reenlistment code is authorized by regulatory guidance for individuals discharged by reason of best interest of the service. Given his poor attitude and military bearing, the Board concludes that there is no error or injustice in his reenlistment code.

In view of the foregoing, the Board finds the existence of an injustice warranting the following corrective action.

RECOMMENDATION:

a. That Petitioner's naval record be corrected to show he received an entry level separation by reason of best interest of the service on 16 September 1998, vice by reason of personality disorder.


b. That no further relief be granted.

c. That any material or entries inconsistent with or relating to the Board's recommendation be corrected, removed or completely expunged from Petitioner's record and that no such entries or material be added to the record in the future.

d. That any material directed to be removed from Petitioner's naval record be returned to the Board, together with a copy of this Report of Proceedings, for retention in a confidential file maintained for such purpose, with no cross reference being made a part of Petitioner's naval record.

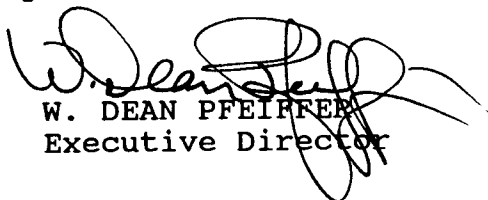
4. It is certified that a quorum was present at the Board's review and deliberations, and that the foregoing is a true and complete record of the Board's proceedings in the above entitled matter.

ROBERT D. ZSALMAN  
Recorder



ALAN E. GOLDSMITH  
Acting Recorder

5. Pursuant to the delegation of authority set out in Section 6(e) of the revised Procedures of the Board for Correction of Naval Records (32 Code of Federal Regulations, Section 723.6(e)) and having assured compliance with its provisions, it is hereby announced that the foregoing corrective action, taken under the authority of reference (a), has been approved by the Board on behalf of the Secretary of the Navy.



W. DEAN PFEIFFER  
Executive Director